

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

DENNIS R. SPURGEON	*	CIVIL ACTION NO. 6:11-1807
	*	
VERSUS	*	JUDGE TERRY A. DOUGHTY
	*	
SWIFT GROUP, L.L.C.	*	MAG. JUDGE PATRICK J. HANNA
AND CALVIN J. LELEUX	*	

\*\*\*\*\*

**MEMORANDUM ON BEHALF OF DEFENDANTS IN OPPOSITION TO PLAINTIFF'S  
MOTION TO IMPOSE SANCTIONS FOR CONTEMPT OF COURT**

\*\*\*\*\*

MAY IT PLEASE THE COURT:

Plaintiff, Dennis R. Spurgeon, respectfully moves the Court for an order holding Defendants, Swift Group, LLC, ICS Nett, Inc., Shehraz Shah, Swiftships Shipbuilders, LLC, Swiftships, LLC and Swiftships Group, Inc., in contempt and for monetary sanctions due to Defendants' failure to comply with this Court's Order issued on April 27, 2019 (Doc. 215).

Defendants oppose this motion for the reasons which follow.

**DEFENDANTS HAVE ACTED IN GOOD FAITH AND EXERCISED DILIGENCE**

The record of correspondence sent and received by and among counsel, as well as the defendants themselves show that defendants have been acting diligently and in good faith.

Immediately prior to the filing of this motion, by email dated June 6, 2019, counsel by informal agreement extended the receipt of the remaining documents,, to-wit, the current bank statements for all judgment creditors asap. On June 14, 2019, plaintiff was furnished the accounts of ICS Nett, Inc. and Swiftships, LLC. On June 17, 2019, plaintiff was furnished with all active

contracts involving either ICS Nett, Inc. or Swiftships, LLC. On June 24, in response to plaintiff's request the same day.

To date, 127 emails/letters have been exchanged between counsel, and defendant has produced in excess of 2,100 pages of financial records and other documents.

Each time defendant believes that the request has been satisfied, another moving target emerges. Each time, however, defendant responses have been forthcoming although some have been slightly delayed.

Defendants have taken the production of these documents as a priority, and it remains committed to doing so.

Defendants have not disregarding the court's previous order, but in good faith believed that it had complied. At no time was defendants' actions or inaction taken in disregard of the court's order nor have they disrespected the court or plaintiff in the process of assembling these documents.

Any knew or additional information requested by plaintiff has been immediately furnished to him.

### **APPLICABLE LAW**

Of course, defendants to not challenge the court's inherent power of contempt for the violations of its orders. This power, however, is not a broad reservoir of power, but rather a limited source, an implied power squeezed from the need to make the court function.

These inherent powers must be exercised with restraint and discretion. Shepherd v. American Broadcasting Companies, 62 F.3d 1469, 1475 (D.C.Cir.1995)).

A contempt fine ... is civil and remedial if it “either coerce[s] the defendant into compliance with the court's order, [or] ... compensate[s] the complainant for losses sustained. Crowe v. Smith, 151 F.3d 217, 227 (5th Cir.1998).

In the present case, defendants have already complied with the data request by plaintiff. While this does not excuse the delay it certainly limits the function of contempt. It does not coerce any party to perform any act, and plaintiff does not make a case of any damage which he may have sustained as a result of any delay.

### **CONCLUSION**

For the foregoing reasons, defendants, respectfully and humbly requests that the court deny plaintiff motion for sanctions.

RESPECTFULLY SUBMITTED BY:

NICHOLAS F. LaROCCA, JR., LTD.  
(A Professional Law Corporation)

S/ Nicholas F. LaRocca, Jr.  
NICHOLAS F. LaROCCA, JR. (#8045)  
607 Brashear Avenue  
Post Office Box 2466  
Morgan City, LA 70381-2466  
Telephone: (985) 385-4800  
Attorney for Defendants

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 28, 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

S/ Nicholas F. LaRocca, Jr.  
NICHOLAS F. LAROCKA, JR.